



SENIOR & LONG TERM CARE DIVISION COMMUNITY SERVICES BUREAU

MEDICAID HOSPICE POLICY MANUAL

Section: ELIGIBILITY FOR SERVICES

**Subject: Medicaid Hospice
Election of Hospice Care**

Reference: ARM 37.40.815; 42 CFR 418.24

FILING AN ELECTION STATEMENT

A member who meets the eligibility requirement for Medicaid Hospice may file an election statement with a particular hospice. If the member is physically or mentally incapacitated, his or her representative may file the election statement.

NOTICE OF ELECTION (NOE)

The hospice chosen by the eligible member (or his or her representative) must file the Notice of Election (NOE) with the Department within five calendar days after the effective date of the election statement.

CONSEQUENCES OF FAILURE TO SUBMIT A TIMELY NOTICE OF ELECTION

When a hospice does not file the required NOE for its Medicaid members within five calendar days after the effective date of election, Medicaid will not reimburse for days of hospice care from the effective date of election to the date of filing of the NOE. These days are a provider liability, and the provider may not bill the beneficiary for them.

EXCEPTION TO THE CONSEQUENCES FOR UNTIMELY FILING OF THE NOE

The Department may waive the consequences of failure to submit a timely-filed NOE. The Department will determine if a circumstance encountered by a hospice is exceptional and qualifies for waiver of the consequence. A hospice must fully document and furnish any requested documentation to the Department for a determination of exception. An exceptional circumstance may be due to, but is not limited to the following:

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1. Fires, floods, earthquakes, or similar unusual events that inflict extensive damage to the hospice's ability to operate;
2. A Department system issue that is beyond the control of the hospice;
3. A newly Medicaid-certified hospice that is notified of that certification after the Medicaid certification date, or which is awaiting its user ID from the Department; or
4. Other situations determined by the Department to be beyond the control of the hospice.

**CONTENT OF
ELECTION
STATEMENT**

The Content of Election Statement should include the following:

1. Identification of the particular hospice and of the attending physician that will provide care to the member. The member or representative must acknowledge that the identified attending physician was his or her choice;
2. The member's or representative's acknowledgement that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the member's terminal illness;
3. Acknowledgement that certain Medicaid services, as set forth in the "Waiver of Other Benefits", section of this policy, are waived by the election;
4. The effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement; and

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5. The signature of the member or representative.

DURATION OF ELECTION

An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the member:

1. Remains in the care of a hospice;
2. Does not revoke the election; and
3. Is not discharged from the hospice under the provisions of 37.40.815, (Refer to Hospice Policy 406).

WAIVER OF OTHER BENEFITS

For the duration of an election period of hospice care, a member waives all rights to Medicaid payments for the following:

1. Hospice care provided by a hospice other than the hospice designated by the member (unless provided under arrangements made by the designated hospice); and
2. Any Medicaid services that are related to the treatment of the terminal condition for which hospice was elected or a related condition or that are equivalent to hospice care except for services:
 - a. Provided by the designated hospice,
 - b. Provided by another hospice under arrangements made by the designated hospice; and
 - c. Provided by the member's attending physician if that physician is not an employee of the designated hospice or

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receiving compensation from the hospice for those services.

RE-ELECTION OF HOSPICE BENEFITS

If an election has been revoked in accordance with 37.40.816, (Refer to Hospice Policy 407), the member (or his or her representative, if the member is mentally or physically incapacitated), may at any time file an election, in accordance with this section, for any other election period that is still available to the member.

CHANGING THE ATTENDING PHYSICIAN

To change the designated attending physician, the member (or representative) must file a signed statement with the hospice that states that he or she is changing his or her attending physician.

1. The statement must identify the new attending physician, and include the date the change is to be effective and the date signed by the member (or representative);
2. The member (or representative) must acknowledge that the change in the attending physician is due to the member's choice; and
3. The effective date of the change in attending physician cannot be the date the statement is signed.